

manner, which was dangerous to the public having regards to all the circumstances of the case...”

3. On 29th August 2008, the Respondent, with his Counsel present, pleaded guilty to dangerous driving. He admitted the prosecution’s summary of facts. The facts said that, on 15th August 2007, the Respondent was spotted by a Land Transport Authority (LTA) Officer, driving a taxi Registration Number LT3348, with an expired wheel tax license, along Fletcher Road, Vatuwaqa. The LTA officer was on mobile patrol, and he decided to follow the Respondent.
4. Along the way, the LTA Officer alerted the Police, who also followed the Respondent. It was said, the Respondent made a sudden U-turn opposite Vatuwaqa Cemetary and then went towards Grantham Road, in Raiwaqa. He was now being pursued by the LTA and Police. He drove through Milverton Road overtaking other vehicles on a blind bend, and proceeded towards Rewa Street, where his car engine blew up, opposite Indian College.
5. In Court, the Respondent admitted he was driving dangerously, at the time. He was a 1st offender. He admitted, in mitigation, he made a mistake. He said, he had paid a \$300 fine to the Land Transport Authority. He said, he had been driving for 20 years, with a clean record. He asked for a discharge, and the learned Resident Magistrate responded accordingly, with a written sentence on 29th August 2008.
6. The State appealed to this Court, arguing that the learned Resident Magistrate had erred in law, by discharging the Respondent without conviction, on a charge of “dangerous driving”. The State argued, given the

nature of the dangerous driving in this case, when the Respondent overtook numerous vehicles on a blind bend in Milverton Road, and thereby endangering people's lives, a fine in the vicinity of \$300, would have been more appropriate.

7. I have carefully perused the Court record, and listened to the parties verbal submissions on 17th July 2009. I have also carefully read the State's written submission,
8. In my view, "dangerous driving" contrary to Sections 98(1) and 114 of the Land Transport Act No.35 of 1998, is certainly a serious traffic offence. It attracts a maximum fine of \$1,000 or a 12 months prison sentence, and a 6months disqualification, for a first offence. For a second, or subsequent offence, it attracts a maximum fine of \$2,000 or a 2 years prison sentence and a disqualification for 12 months. Parliament, through sections 98(1) and 114 abovementioned, required the Courts to pass a sentence, that reflects on the gravity of the offence. With respect, a section 44 Penal Code discharged without conviction, on a driver, who overtakes numerous cars on a blind bend along Milverton Road, is not appropriate. Even the Respondent offered a \$250 fine during the hearing of the State appeal.
9. Pursuant to Section 319 of the Criminal Procedure Code, I quash the Section 44 Penal Code discharged without conviction and substitute a sentence of \$300 fine on the Respondent to be paid by 31st August 2009 in default, 3 months in prison.

[Salesi Temo]

ACTING JUDGE

At Suva

24th July 2009